

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:11cr29

UNITED STATES OF AMERICA,

vs.

BILLY DEAN TESSENEER.

)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court *sua sponte* to continue the case.

On April 5, 2011, the Defendant was charged in an eight count bill of indictment with six counts of possession with intent to distribute methamphetamine, possession of a firearm by a convicted felon and possessing a firearm in furtherance of a drug trafficking crime, in violation of 21 U.S.C. §841(a)(1), 18 U.S.C. §922(g)(1), & 18 U.S.C. §924(c)(1)(A). [Doc. 1]. The Defendant first appeared with counsel on May 2, 2011 at which time he was arraigned and his case was placed on the May 2011 trial calendar. [Doc. 7].

"Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se." 18 U.S.C. §3161(c)(2). The Defendant here has not so consented and thus, his trial may not start less than thirty days from his appearance with

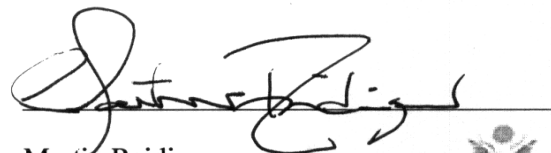
counsel.

In addition, the Court finds that without a continuance, counsel would not have the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. §3161(h)(7)(B)(iv).

For the reasons stated herein, the ends of justice served by continuing this case outweigh the best interests of the public and the Defendant in a speedy trial. 18 U.S.C. §3161(h)(7)(A).

IT IS, THEREFORE, ORDERED that the above-captioned case is hereby **CONTINUED** from the May 2011 term in the Asheville Division.

Signed: May 2, 2011


Martin Reidinger
United States District Judge

